

Federal Acquisition Regulation

7.400

evaluating economic order quantities for supplies under their cognizance.

(b) In recognition of the fact that economic purchase quantity data furnished by offerors are only one of many data inputs required for determining the most economical order quantities, contracting officers should generally take no action to revise quantities to be acquired in connection with the instant procurement. However, if a significant price variation is evident from offeror responses, and the potential for significant savings is apparent, the contracting officer shall consult with the cognizant inventory manager or requirements development activity before proceeding with an award or negotiations. If this consultation discloses that the Government should be ordering an item of supply in different quantities and the inventory manager/requirements development activity concurs, the solicitation for the item should be amended or canceled and a new requisition should be obtained.

Subpart 7.3—Contractor Versus Government Performance

SOURCE: 71 FR 20299, Apr. 19, 2006, unless otherwise noted.

7.300 [Reserved]

7.301 Definitions.

Definitions of “inherently governmental activity” and other terms applicable to this subpart are set forth at Attachment D of the Office of Management and Budget Circular No. A-76 (Revised), Performance of Commercial Activities, dated May 29, 2003 (the Circular).

7.302 Policy.

(a) The Circular provides that it is the policy of the Government to—

(1) Perform inherently governmental activities with Government personnel; and

(2) Subject commercial activities to the forces of competition.

(b) As provided in the Circular, agencies shall—

(1) Not use contractors to perform inherently governmental activities;

(2) Conduct public-private competitions in accordance with the provisions

of the Circular and, as applicable, these regulations;

(3) Give appropriate consideration relative to cost when making performance decisions between agency and contractor performance in public-private competitions;

(4) Consider the Agency Tender Official an interested party in accordance with 31 U.S.C. 3551 to 3553 for purposes of filing a protest at the Government Accountability Office; and

(5) Hear contests in accordance with OMB Circular A-76, Attachment B, Paragraph F.

(c) When using sealed bidding in public-private competitions under OMB Circular A-76, contracting officers shall not hold discussions to correct deficiencies.

7.303–7.304 [Reserved]

7.305 Solicitation provisions and contract clause.

(a) The contracting officer shall, when soliciting offers and tenders, insert in solicitations issued for standard competitions the provision at 52.207-1, Notice of Standard Competition.

(b) The contracting officer shall, when soliciting offers, insert in solicitations issued for streamlined competitions the provision at 52.207-2, Notice of Streamlined Competition.

(c) The contracting officer shall insert the clause at 52.207-3, Right of First Refusal of Employment, in all solicitations which may result in a conversion from in-house performance to contract performance of work currently being performed by the Government and in contracts that result from the solicitations, whether or not a public-private competition is conducted. The 10-day period in the clause may be varied by the contracting officer up to a period of 90 days.

Subpart 7.4—Equipment Lease or Purchase

7.400 Scope of subpart.

This subpart provides guidance pertaining to the decision to acquire equipment by lease or purchase. It applies to both the initial acquisition of equipment and the renewal or extension of existing equipment leases.